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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

KRISTIN LICHTEFELD, an individual,	)	Case No. <u>'14CV2286 GPC JLB</u>
and JASON LICHTEFELD, an	)	
individual,	)	<b>COMPLAINT FOR DAMAGES</b>
	)	
Plaintiffs,	)	<b>1. Wrongful Death</b>
	)	<b>2. Negligent Infliction of Emotional</b>
vs.	)	<b>Distress</b>
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	

Plaintiffs, KRISTIN LICHTEFELD and JASON LICHTEFELD, allege as follows:

**PARTIES**

1. Plaintiff, KRISTIN LICHTEFELD ("Mrs. Lichtefeld"), was at all times relevant to this Complaint, an individual residing in San Diego County, California. She is the mother of deceased infant, Noah Lichtefeld.

1           2.     Plaintiff, JASON LICHTEFELD ("Mr. Lichtefeld"), was at all times  
2 relevant to this Complaint, an individual residing in San Diego County, California.  
3 He is the father of deceased infant, Noah Lichtefeld.

4           3.     Naval Medical Center San Diego Hospital ("NMCSH") is a United States  
5 Naval Hospital located at 34800 Bob Wilson Drive in the City and County of San  
6 Diego, California. NMCSH is operated by the U.S. Department of the Navy and is  
7 subject to the authority, direction and control of Defendant, THE UNITED STATES  
8 OF AMERICA.

9           4.     At all relevant times, the physicians, nurses, staff, technicians, and other  
10 care providers and personnel present and providing services at NMCSH relevant to  
11 the occurrences herein (the "NMCSH Staff") were employees and agents of NMCSH,  
12 and of Defendant, THE UNITED STATES OF AMERICA, acting within the course  
13 and scope of said employment and agency. 28 U.S.C. § 1346(b) authorizes recovery  
14 for personal injury against Defendant, THE UNITED STATES OF AMERICA,  
15 caused by the acts and omissions of NMCSH Staff as federal employees and/or agents  
16 acting within the course and scope of said employment and/or agency, including  
17 NMCSH nurses, other healthcare providers and affiliated personnel.

18  
19                               **JURISDICTION AND VENUE**

20           5.     This Court has jurisdiction over this action pursuant to 28 U.S.C. § 2671  
21 et seq. of the Federal Tort Claims Act. Further, pursuant to 28 U.S.C. § 1346(b), this  
22 court has jurisdiction over civil actions involving the United States as a defendant.

23           6.     Venue is proper in this Court pursuant to 28 U.S.C. § 1402(b), because  
24 the acts and omissions which are the subject of this Complaint occurred in San Diego  
25 County, California, within the jurisdiction of this court.

26           7.     Pursuant to 28 U.S.C. § 2675(a), Plaintiff's administrative remedies have  
27 been exhausted. The claims set forth herein were presented to the Office of the Judge  
28

1 Advocate General on December 16, 2013. On August 21, 2014, the claims were  
2 finally denied by that office via written correspondence.

3  
4 **GENERAL ALLEGATIONS**

5 8. Plaintiffs refer to and incorporate by reference each preceding paragraph  
6 as though fully set forth herein.

7 9. Noah Lichtefeld died on May 10, 2013 shortly after his birth at NMCSO.

8 10. On or about November 1, 2012 through May 10, 2013, Mrs. Lichtefeld  
9 received prenatal care from NMCSO.

10 11. During that care, NMCSO failed to adequately respond to signs of  
11 impending placental abruption and other health risks to Mrs. Lichtefeld and her son.  
12 NMCSO failed to admit Mrs. Lichtefeld to the hospital for monitoring and evaluation,  
13 and appropriate treatment of her health issues on May 2, 2013, or by May 8, 2013, as  
14 required under the minimum standard of care. Instead, on May 10, 2014, NMCSO  
15 Mrs. Lichtefeld suffered a placental abruption at home, setting in motion a chain of  
16 events that eventually caused her son's death, shortly after birth that day.

17 12. In addition to the physical injuries to Mrs. Lichtefeld, Mrs. Lichtefeld  
18 and Mr. Lichtefeld's pain and suffering of losing their son, Mrs. Lichtefeld and Mr.  
19 Lichtefeld also sustained serious emotional distress as a result of witnessing the  
20 manner and circumstances, in which their son died.

21  
22 **FIRST CAUSE OF ACTION**

23 **WRONGFUL DEATH**

24 ***By All Plaintiffs, Against Defendant, THE UNITED STATES OF AMERICA***

25 13. Plaintiffs refer to and incorporate by reference each preceding paragraph  
26 as though fully set forth herein.

1           14. In 2012 and 2013, NMCSO provided medical care to Plaintiff, Mrs.  
2 Lichtefeld, in relation to her pregnancy with Noah Lichtefeld, the son of Mrs.  
3 Lichtefeld and her husband, Mr. Lichtefeld.

4           15. NMCSO acted as health care providers, rendering care and treatment to  
5 Mrs. Lichtefeld and the son of Plaintiffs, Noah Lichtefeld. As such, NMCSO Staff  
6 owed a duty to Plaintiffs to possess and practice that degree of learning and skill  
7 ordinarily possessed and practiced by reputable health care providers practicing in the  
8 same or similar locality and under similar circumstances. NMCSO Staff further owed  
9 a duty to use the care and skill exercised in like cases by reputable members of the  
10 health care profession practicing in the same or similar locality under similar  
11 circumstances, and to use reasonable diligence, and their best judgment, in the  
12 exercise of skill and the application of learning, in an effort to accomplish the  
13 purposes for which they had been employed.

14           16. The medical care provided by NMCSO Staff, fell below the standard of  
15 care and therefore breached NMCSO's duties to Plaintiffs described above. The  
16 medical care and treatment provided by NMCSO Staff was provided negligently,  
17 carelessly and recklessly, and in disregard of the health, safety and well-being of  
18 Plaintiffs and their son, Noah.

19           17. NMCSO Staffs' negligent acts and omissions substantially, actually and  
20 proximately caused the wrongful death of Noah Lichtefeld on May 10, 2012, shortly  
21 after his birth that same day.

22           18. NMCSO Staffs' negligent acts also caused physical injury to Plaintiff,  
23 Mrs. Lichtefeld, resulting in general and special damages in an amount to be proven at  
24 trial.

25           19. Plaintiffs have incurred, and will incur in the future, damages related to  
26 the negligence of NMCSO Staff in an amount according to proof at trial.

**SECOND CAUSE OF ACTION**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

***By All Plaintiffs, Against Defendant, THE UNITED STATES OF AMERICA***

20. Plaintiffs refer to and incorporate by reference each preceding paragraph as though fully set forth herein.

21. Plaintiffs were present at the scene of their son, Noah Lichtefeld's injury. They were in close proximity to and witnessed NMCSO Staffs' negligent conduct, resulting in the wrongful death of Noah Lichtefeld.

22. Plaintiffs were aware that Noah Lichtefeld was being injured by NMCSO Staffs' negligence.

23. As a result of witnessing this event and as an actual and proximate result of the negligence of NMCSO Staff, Plaintiffs sustained serious emotional distress.

24. As a result of the forgoing, Plaintiffs are entitled to recover damages against Defendant, THE UNITED STATES OF AMERICA, for Negligent Infliction of Emotional Distress, according to proof.

**PRAYER**

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For general damages according to proof;
2. For special damages according to proof;
3. For prejudgment interest as provided by law;
4. For costs of suit incurred; and

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1           5.     For such other and further relief as the court deems just and proper.  
2  
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4     Dated: 9/26/14

**MULLIGAN, BANHAM & FINDLEY**

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6           s/ Brian K. Findley

Brian K. Findley

7     Attorneys for Plaintiffs

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